

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CONTRIBUTIONS) (AMENDMENT NO. 9)
REGULATIONS 2007
2007 No. 2905**

1. This explanatory memorandum has been prepared by HM Revenue and Customs and is laid before Parliament by Command of Her Majesty.
2. **Description**

This instrument amends the Social Security (Contributions) Regulations 2001 (S.I. 2001 No. 1004). It revokes the disregard for holiday pay in paragraph 12 in Part 10 of Schedule 3 (miscellaneous sums disregarded in the computation of earnings). However, it will continue to have effect until the fifth anniversary of the commencement date of these Regulations in the case of holiday pay derived from an employed earner's employment if the secondary contributor, in relation to that employment, is a person carrying on a business which includes construction operations and the employed earner was personally engaged in such operations at the time that entitlement to that pay accrued. This instrument will come into force on 30 October 2007.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None
4. **Legislative Background**

On 9 October 2007, the Chancellor of the Exchequer announced that the disregard in respect of National Insurance Contributions for holiday pay will be removed immediately for all but the construction sector. The construction sector will be allowed a further five years of the disregard before it is withdrawn completely. The exemption, originally envisaged for use by the construction sector, was introduced in the 1960s to take account of the high mobility and turnover of the labour force in the sector and situations where one employer would have to pay holiday pay which they had not actually funded or had only partially funded. This disregard is now being used by employers outside this sector, with large impacts on Exchequer yield.
5. **Extent**

The amendment, like The Social Security (Contributions) Regulations 2001 (S.I. 2001 No. 1004), applies throughout the United Kingdom.
6. **European Convention on Human Rights**

This instrument is subject to the negative resolution procedure and does not amend primary legislation. Accordingly, no statement of compliance with the European Convention on Human Rights is required.

7. Policy background

- 7.1 Section 3(2) of the Social Security Contributions and Benefit Act 1992 and its Northern Ireland analogue provide that the amount of a person's earnings is to be calculated or estimated in such manner or on such basis as may be prescribed by regulations. Section 3(3) then provides that regulations made for the purposes of section 3(2) may prescribe, that payments of a particular class or description are to be disregarded in the calculation of earnings. Section 170 and 171(4) of the Social Security Contributions and Benefit Act 1992 and its Northern Ireland analogue provide that regulations under (inter alia) section 3 may provide for the making of transitional provisions.
- 7.2 These amendments will make only a small amendment to the Social Security (Contributions) Regulations 2001 which are very large and complex (the printed text ran to around 150 pages in 2001). HM Revenue and Customs has no current plans to consolidate these Regulations. On the last occasion it was a task involving 18 months' work and contributions from four different Government departments.

8. Impact

An impact assessment has been prepared is available on the HMRC website at www.hmrc.gov.uk.

9. Contact

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